

**\* \* REASONS FOR AMENDMENTS AND REMARKS \* \***

Applicants wish to acknowledge with appreciation the Examiner's analysis and efforts in examining this application.

As a preliminary matter, Claim 10 has been amended pursuant the Examiner's suggestion. It is thus, respectively requested, that the Examiner's objection to Claim 10 be withdrawn. In addition, Claims 2 and 14 have been canceled without disclaimer of subject matter. A new Claim 19 has been added, which is dependent on newly amended Claim 8.

On pages 2 and 3 of the Official Action, the Examiner rejected Claims 8, 10 and 13 under 35 U.S.C. § 102(b) as being anticipated by Williams (U.S. Patent No. 1,031,407). The Examiner alleges that in Claims 8 and 13 that Williams discloses a metal flume or conduit that is capable of use as a landscaping channel liner comprising a longitudinally-extending trough with floor and sidewalls. The sidewalls form an edge located opposite the floor and a receptacle is formed at the edges by double flanges 4 and open flanges 7 (see Figs. 4 & 5). The Examiner continued that a connector formed by a single lateral flange 5 forms a connector that engages with the receptacle and is spaced apart and parallel to the longitudinally-extending edge. The connector interference fits the receptacle.

In light of the amendments made to Claim 8, it is respectfully believed that this rejection is moot. The nature of the amendments will be further discussed *infra*. It is respectfully requested that, in light of the amendments, this rejection be withdrawn.

On page 3 of the Official Action, the Examiner rejected Claim 14 under 35 U.S.C. § 102(b) as being anticipated by Butler (U.S. Patent No. 4,741,645).

In light of the cancellation of Claim 14, it is respectfully asserted that this rejection is moot.

On pages 3 and 4 of the Official Action, the Examiner rejected Claims 15-18 under 35 U.S.C. § 103(a) as being obvious under Butler as applied to claim 14 above. The Examiner asserted that Butler discloses the invention described above, although it fails to explicitly disclose the features of claims 15-18, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide holes in the bottom portion of a drain to drain into another pipe and out to another part of a larger water collection system. The Examiner continued that the holes taught by Butler et al. provide an opening for the liquid to drain into such a pipe and, furthermore, it would have been obvious to provide a perforated line within the trench drain floor to facilitate removal of a portion of the drain to accommodate such a pipe. The Examiner further asserted that in the case that removal of a bottom portion of the drain is not necessary, the trench drain's perforated portion may remain intact without compromising operation and functionality of the system.

In light of the cancellation of Claim 14, it is respectfully requested that this rejection is moot. Nevertheless, the subject matter of Claims 15 through 18 is directed to characteristics of the "selectively removable portion configured to receive a post." Because gutters do not have holes configured to receive posts, it is respectfully asserted that one skilled in the art would not be motivated by gutter art to achieve the present invention. It is, thus, respectfully requested that this rejection be withdrawn.

On pages 4 and 5 of the Official Action, the Examiner rejected Claims 1-5 and 7 under 35 U.S.C. § 103(a) as being obvious under Williams (U.S. Patent No. 1,031,407) in view of Norton (U.S. Patent No. 1,237,544). The Examiner alleged that Williams discloses a metal flume or conduit that is capable of use as a landscaping channel liner comprising a longitudinally-extending trough with floor and sidewalls. The Examiner continued that the sidewalls form an edge located opposite the floor and a receptacle is formed at the edges by double flanges 4 and open flanges 7 (see Figs. 4 & 5). The Examiner further asserted that a connector formed by a single lateral flange 5 forms a connector that engages with the receptacle

and is spaced apart and parallel to the longitudinally-extending edge. The connector interference fits the receptacle. The Examiner contends that Williams illustrates that the sidewalls and floors extend longitudinally beyond the open end of each of the longitudinally-extending receptacle (see Fig. 1); however Williams fails to disclose that the receptacles have first and second transverse open ends. The Examiner also alleges that Norton discloses a flume comprising a longitudinally-extending trough whereby the trough has receptacles with first and second transverse open ends.

Claim 1 has been amended to include the first transverse open end of one of the longitudinally-extending receptacle mating with the second transverse open end of the other longitudinally-extending receptacle. Support for this amendment is provided in Figs. 1, 3, and 5 of the present application for example. As the Examiner indicated, Williams fails to disclose the receptacles having first and second transverse open ends. In addition, as shown in Fig. 7 of Norton, it does not disclose mating ends as required by Claim 1. Rather, Norton discloses receptacles that are spaced apart from each other and do not mate. Accordingly, the combination of Williams and Norton does not disclose or teach all the claim limitations of Claim 1, as amended. Accordingly, withdraw of this rejection is respectfully requested.

Regarding Claim 2, the Examiner alleged that Norton illustrates the receptacle being essentially flush with the second transverse end of a trough apparatus. Regarding Claims 3-5 and 7, the Examiner asserted that Norton discloses first and second connectors 15 partially fitted in the ends of the receptacles wherein the connectors connect two channel liner apparatus to one another, the two channel liner apparatus overlapping one another. The connectors' interference fit their respective longitudinally-extending receptacles. The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Williams to incorporate a longitudinally-extending receptacle with first and second transverse open ends, as taught by Norton, because Norton teaches a functional

equivalent of connecting multiple trough apparatus to one another through another receptacle and connection method.

With respect to Claim 2, it has been cancelled. Nevertheless, the Norton reference does not disclose mating receptacles. As previously indicated, Fig. 7 shows the receptacle ends being spaced apart. Furthermore, as Norton discloses in Figs. 5 and 6, the end of the trough is configured to engage a lip on an opposing trough, which limits the extent to which the two connecting troughs can engage each other. Accordingly, a space between the opening of each receptacle is believed required. With respect to Claims 3 through 5 and 7, the Examiner's rejection is believed moot in light of the amendments to Claim 1.

On pages 5 and 6 of the Official Action, the Examiner rejected Claim 6 under 35 U.S.C. § 103(a) as being obvious under Williams in view of Norton, as applied to Claim 4 above, in further view of Becker et al. (U.S. Patent No. 5,718,537). The Examiner alleged that Williams and Norton disclose the features as described above; however, Williams and Norton fail to disclose spikes extending from the sidewalls of the inventions. The Examiner further alleges that Becker et al. discloses a polymeric trench drain 10 that is capable of being used as a liner (see column 1, lines 35-40). Becker et al. illustrates a longitudinally-extending trough with a floor 14 and sidewalls 12 (see Fig. 1). The sidewalls define a longitudinally-extending edge comprising seepage lip 29. The Examiner continued that Becker et al. discloses rods or spikes 36 that extend from a sidewall of the trench drain and that are secured to the ground. The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Williams to comprise spikes, as taught by Becker et al., because the spikes assist in maintaining the invention at a desired location in the adjacent ground illustrates by Williams in Fig. 1.

This rejection is respectfully believed moot in light of the amendments to Claim 1. Nevertheless, it is believed that, in fact, Becker, which teaches attaching a rebar to rebar clips

that extend from a bracket thereby holding a channel in place does not, in combination with Williams and Norton, teach the subject matter of Claim 6. Specifically, Claim 6 recites spikes extending from at least one of the sidewalls, whereas rebar clips are intended to extend from a bracket. This becomes a critical issue in Becker because the channels disclosed therein are specifically meant to be positioned within concrete, as shown in Fig. 10. Such rebars and clips and methods related thereto are believed known in the concrete manufacturing industry. This does not teach, however, spikes extending from the wall of the channel liners, as claimed in Claim 6. Accordingly, it is respectfully requested that this rejection be withdrawn.

On pages 5 and 6 of the Official Action, the Examiner rejected Claim 9 under 35 U.S.C. § 103(a) as being obvious under Williams as applied to Claim 8 above in view of Norton (U.S. Patent No. 1,237,544).

It is respectfully asserted that this rejection is moot in light of the amendments made to Claim 8. Accordingly, it is respectfully requested that this rejection be withdrawn.

On pages 7 and 8 of the Official Action, the Examiner rejected Claims 11 and 12 under 35 U.S.C. § 103(a) as being obvious under Williams as applied to Claim 8 above in view of Butler (U.S. Patent No. 4,741,645). The Examiner alleged that Williams discloses a metal flume or conduit that is capable of use as a landscaping channel liner comprising a longitudinally-extending trough with floor and sidewalls as described above. The Examiner continued that Williams, however, fails to disclose that the invention comprises removable portions. The Examiner further alleged that Butler discloses a continuous gutter lining 8, which is essentially a liner for a channel (see Figs. 8 & 9). He continued that Butler discloses a flange 40 glued to the bottom 43 of the gutter liner in the immediate region of a downspout 36 and a tubular portion 38 that extends downwardly into downspout 36. The Examiner continued that Butler further discloses that a hole 59 is made into the gutter liner strip such that runoff water can drain into the downspout adapter. The Examiner concluded that it would have been obvious to

one of ordinary skill in the art at the time of the invention to modify the drain of Williams to provide holes in the bottom portion, as taught by Butler et al., because the drains may, and commonly do, drain into another pipe and out to another part of a larger water collection system. The holes taught by Butler et al., provide an opening for the liquid to drain into such a pipe. The Examiner continued that it would have been obvious to provide a perforated line within the trench drain floor to facilitate removal of a portion of the drain to accommodate such a pipe and that in the case that removal of a bottom portion of the drain is not necessary, the trench drain's perforated portion may remain intact without compromising operation of the system.

With respect to Claim 8, it has been amended to include a selectively removable portion configured to receive a post. Support for this amendment can easily be found in Figs. 7 and 8 of the present application, for example. A removable portion is disclosed nowhere in the prior art. Certainly none of the prior art cited has been configured or discloses bores that receive a post such as a fence post. In fact, the only prior art cited was the gutter disclosed in the Butler patent. This reference, however, simply includes a bore disposed through the gutter to connect to a conventional downspout. This is not motivation to create an opening in a channel liner configured to receive a post.

It is further noted that the dependent claims, though directed to a removable portion, is directed to such a portion configured to receive a post. Accordingly, none of the prior art cited by the Examiner is relevant to the claimed invention. In addition, the newly added Claim 19 is directed to a seam that extends from the removable portion to the periphery of the longitudinally-extending floor. Support for such a claim is illustratively disclosed by reference number 66, as illustrative embodiment of such a seam shown in Figs. 7 and 8. Clearly none of the prior art cited contemplates such a seam and it is respectfully asserted that this claim is allowable.

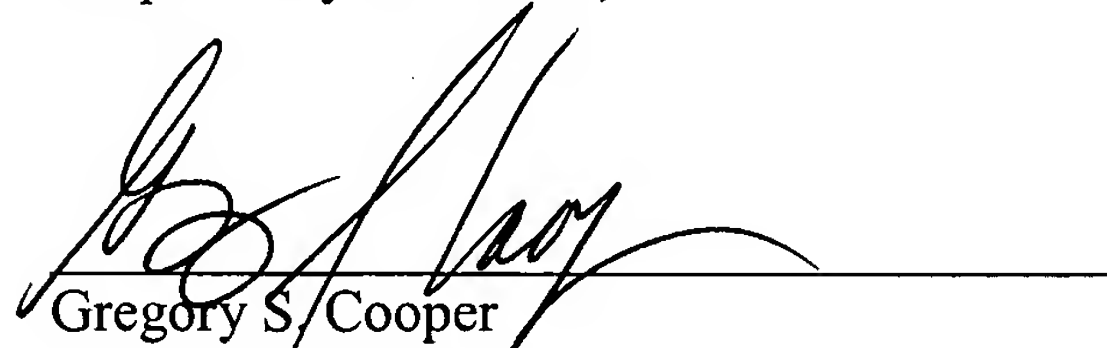


Serial No. 10/656699  
Docket No. 20794-82667

If upon consideration of the above the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact Applicants' patent counsel at the telephone number given below to discuss such issues.

A Petition for Extension of Time under 37 C.F.R. §1.136 accompanies the filing of this document. To the extent necessary, a petition for an additional extension of time under 37 C.F.R. § 1.136 is hereby made. To the extent additional fees are required, please charge the fees due in connection with the filing of this paper, including additional extension of time fees, to Deposit Account No. 02-1010 (20794/82667) and please credit any excess fees to such deposit account.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Gregory S. Cooper", is written over a horizontal line.

Gregory S. Cooper  
Reg. No. 40,965  
Direct Line (260) 425-4660